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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/587,058	06/02/2000	Bernhard Schierling	4452-195RE	6846

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EXAMINER

BONCK, RODNEY H

ART UNIT	PAPER NUMBER
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3681

DATE MAILED: 01/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/587,058

Applicant(s)

SCHIERLING, BERNHARD

Examiner

Rodney H. Bonck

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 and 8 is/are allowed.
- 6) ☒ Claim(s) 7 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 08/625,759.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s) _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

The following action is in response to the amendment received November 20, 2003, Paper No. 25.

Claim Objections

Claim 8 is objected to because of the following informalities: Line 36 of claim 8 (five lines from the end of the claim) states that the insulating member extends "circumferentially above said pressure plate", but it apparently should state that the member extends – circumferentially about said pressure plate --, *i.e.*, "above" apparently should be – about --. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5, from which claim 7 depends, recites that the insulating member has "a first resistance to thermal conductivity", that the membrane spring "has a second resistance to thermal conductivity", and that "said first resistance to thermal conductivity is higher than said second resistance". Claim 7 seems to contradict this recitation, or is at least confusing, in stating that the material of the

Art Unit: 3681

membrane spring "has a first resistance to thermal conductivity", that the material of the pressure plate "has a second resistance to thermal conductivity", that "said metal of said insulating member has a third resistance to thermal conductivity", and that "the third resistance to thermal conductivity is greater than at least one of the first resistance to thermal conductivity and the second resistance to thermal conductivity." Thus claim 7 appears to be stating that the insulating material has a first resistance which is the same as that of the material of the membrane spring, the membrane spring has a second resistance which is apparently the same as the material of the pressure plate, and that the metal of the insulating member has some third resistance which is apparently different than that of the insulating member as a whole, although the insulating member is "a single, one-piece element". Clarification is required.

Allowable Subject Matter

Claims 1-6 and 8 are allowed.

Claim 7 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Response to Arguments

After further reconsideration, the examiner agrees that claims 5-8 do not improperly recapture surrendered subject matter. Therefore, the rejection under 35 USC 251 is withdrawn. In reviewing the claims, however, the examiner noticed indefinite language in claim 7 and an apparent typographical error in claim 8. It is the

Art Unit: 3681

examiner's opinion that the application would be in condition for allowance if the deficiencies in claims 7 and 8 were corrected.

Note that, in accordance with 37 CFR 1.175(b), a supplemental declaration must be submitted prior to allowance. In addition, the original patent must be surrendered or an affidavit/declaration averring that the original patent is lost or misplaced must be filed before the application can be allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney H. Bonck whose telephone number is (703)-308-2904. The examiner can normally be reached on Monday-Friday 7:30AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (703)-308-0830. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1113.



Rodney H. Bonck
Primary Examiner
Art Unit 3681

rhb
January 5, 2004